UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	Docket No. CAA-05- 2001-0020
	)	
	)	Proceeding to Assess MM-05- 2001-000
	)	Administrative Penalties
Strong Steel Products, LLC	)	under Section 113(d) RCRA-05- 2001-0011
6464 Strong Street	)	of the Clean Air Act
Detroit, Michigan 48209	)	42 U.S.C. § 7413 and Assess
	)	Administrative Penalties and
	)	Compliance Order pursuant to
Respondent	)	3008(a) of the Solid Waste Disposal
	)	Act 42 U.S.C. § 6928(a).
	)	

ADMINISTRATIVE COMPLAINT AND NOTICE OF PROPOSED ORDER ASSESSING A PENALTY AND COMPLIANCE ORDER

This civil administrative action is instituted pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (U.S. EPA) by Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d), Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), 42 U.S.C. § 6928(a), and pursuant to the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22, ("Consolidated Rules") against Respondent, Strong Steel Products, LLC ("Strong") for administrative penalties and an Order directing compliance with RCRA. The Complainants are, by lawful delegation, Directors of the Air and Radiation Division for the violations of the CAA alleged in the Complaint and the Chief of the Enforcement and Compliance Assurance Branch in the Waste, Pesticides and Toxics Division for the

violations of RCRA alleged in the Complaint. They jointly issue this Complaint.

I. STATUTORY AND REGULATORY BACKGROUND

CLEAN AIR ACT

1. Section 608(a) of the CAA, 42 U.S.C. § 7671g(a), provides, in part, that the Administrator of the U.S. EPA shall promulgate regulations establishing standards and requirements regarding the use and disposal of class I and class II substances during service, repair, or disposal of appliances and industrial process refrigeration.

2. The term "class I substance" means each of the substances listed as provided in Section 602(a) of the CAA, 42 U.S.C. § 7671a(a), and Section 601(3) of the Act, 42 U.S.C. § 7671(3), and Appendix A to Subpart A of Part 82, 40 C.F.R. Part 82.

3. The term "class II substance" means each of the substances listed as provided in Section 602(b) of the CAA, 42 U.S.C. § 7671a(b), and Section 601(4) of the Act, and Section 601(4) of the CAA, 42 U.S.C. § 7671(4), and Appendix B to Subpart A of Part 82, 40 C.F.R. Part § 82.

4. The term "appliance" is defined in Section 601(1) of the CAA, 42 U.S.C. § 7671(1), and 40 C.F.R. § 82.152(a), as any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

5. The term "small appliance" is defined in 40 C.F.R. § 82.152 to include home refrigerators and freezers, room air conditioners, dehumidifiers

and other devices manufactured, charged and hermetically sealed with five pounds or less of a refrigerant.

6. On May 14, 1993, pursuant to Section 608(a) of the Act, 42 U.S.C. § 7671g(a), U.S. EPA published regulations establishing standards and requirements regarding the use and disposal of class I and class II substances during service, repair, or disposal of appliances and industrial process refrigeration units. These regulations, which have been subsequently amended, are codified in Title 40 of the Code of Federal Regulations, Part 82, Subpart F.

7. 40 C.F.R. § 82.156(f) requires, in part, that, effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance, room air conditioning, motor vehicle air conditioners (MVAC), and MVAC-like appliances must either recover any remaining refrigerant from the appliance in accordance with specific procedures described in 40 CFR § 82.156(g) or (h), or verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Such verification must include a signed statement from the person from whom the appliance or shipment of appliances is obtained that all refrigerant that had not leaked previously has been recovered from the appliances. This "verification" statement must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered. Alternatively, a contract that refrigerant will be removed prior to delivery may be used in lieu of the verification statement.

8. 40 C.F.R. § 82.166(i) requires, in part, that, effective

November 14, 1994, persons disposing of small appliances, MVACs, and MVAC-like appliances must maintain copies of signed statements obtained pursuant to 40 C.F.R. § 82.156.

B. Resource Conservation and Recovery Act

9. Various sections of 3001 through 3038 of RCRA, 42 U.S.C. §§ 6901 through 6938, authorize the Administrator of U.S. EPA to promulgate regulations covering the generation, transportation, treatment, storage or disposal of hazardous waste, including used oil.

10. On May 19, 1980, U.S. EPA promulgated regulations, codified at 40 C.F.R. Parts 260 through 265, governing generators and transporters of hazardous waste and facilities that treat, store and dispose of hazardous waste. These regulations have been amended from time to time, including, but not limited to, on September 10, 1992, and May 11, 1995, when U.S. EPA promulgated regulations on the management of used oil and batteries and codified those rules at 40 C.F.R. Part 273 and 279.

11. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a State to administer the RCRA hazardous waste program in lieu of the Federal program when the Administrator finds that the State program meets certain conditions. Any violation of U.S. EPA's regulations or of any State provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

12. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Michigan final authorization to administer its hazardous waste program in lieu of the Federal government's base RCRA program effective October 30, 1986. 51 Fed. Reg. 36804 (October 16, 1986). The U.S. EPA granted Michigan final authorization to administer certain additional requirements effective January 23, 1990, 54 Fed. Reg. 48608 (November 24, 1989); June 24, 1991, 56 Fed. Reg. 18517 (April 23, 1991); November 30, 1993, 58 Fed. Reg. 51244 (October 1, 1993); April 8, 1996, 61 Fed. Reg. 4742 (February 8, 1996); and December 28, 1998, 63 FR 57912 (October 29, 1998) (stayed and corrected effective date June 1, 1999, 64 Fed. Reg. 10111 (March 2, 1999)). The U.S. EPA-authorized Michigan regulations are codified at Michigan Administrative Code (MAC) Rules 299.9101 *et seq.* See also 40 CFR § 272.1151 *et seq.*

13. U.S. EPA has provided notice of commencement of this action to the State of Michigan pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

II. FACTUAL ALLEGATIONS

A. GENERAL

14. Strong Steel Products, LLC ("Strong") is a Michigan corporation with its principal place of business in Detroit, Michigan. Strong is a limited liability company whose sole member is Ferrous Processing and Trading Company.

15. Strong Steel Products, LLC is the present owner of the property located at 6464 Strong Street, Detroit, Michigan ("the Strong facility"). The Strong facility is approximately 9.1 acres in size.

16. Strong operates a scrap metal processing facility at its Strong facility. Strong began operations at the Strong facility on or about March 27, 1997.

17. Strong purchases scrap metal products and shreds them to recover metallic content. Strong receives and processes scrap metal from industrial companies, municipalities, peddlers and private individuals.

18. Strong receives cars and equipment which contain, among other things, gasoline, oil, batteries, anti-freeze and refrigerants at the Strong facility.

19. Strong receives small appliances, among other things, at the Strong facility.

20. The Strong facility borders Strong and Sherwood Avenues. A scale house and office are located at the Strong facility.

21. Strong operates a grinder and shredder at the Strong facility. They are located in a building west of the scale house and office.

22. There are two buildings located in the vicinity of the grinder and shredder at the Strong facility. A finished product shipping and storage building is located north of the grinder and shredder. A raw material receiving building is located south of the grinder and shredder.

23. A scrap collection area was located at the Strong facility south of the scale house and office.

24. A 4000 gallon above ground storage tank (AST) was located at the Strong facility south of the scrap collection area. This AST was used for diesel fuel.

25. A 1000 gallon AST was located at the Strong facility east of the grinder and shredder building. This AST was used for hydraulic oil. A drum storage area was located near the 1000 gallon AST.

26. A 250 gallon AST was located at the Strong facility in the finished products building. This AST was used to collect waste oil.

27. There are stormwater catch basins and manholes located at the Strong facility. The catch basins and manholes directed storm water to the City of Detroit combined sewer discharge system.

28. The direction of the combined sewer flow at the Strong facility is toward the southeastern portion of the Strong facility.

29. The Strong facility is located within the water drainage district serviced by the City of Detroit combined sewer system.

30. Water discharged to the catch basins and manholes identified in paragraph 27 above may be directed to either the Detroit River via the City of Detroit Waste Water Treatment Plant or under certain storm events directly to Baby Creek and then the Rouge River.

31. The City of Detroit Waste Water Treatment Plant discharges to the Detroit River.

32. On July 22 and August 2, 1999, and August 31, 2000, U.S. EPA, Region 5, inspected the Strong facility.

33. On March 15, 2000, U.S. EPA sent Strong a request for information pursuant to section 3007 of RCRA ("RCRA information request"), 42 U.S.C. 6927.

On May 8, 2000, Strong submitted its response to U.S. EPA's RCRA information request ("Strong's RCRA information request response").

34. On November 30, 1999, U.S. EPA sent Strong a request for information pursuant to section 114 of the CAA ("CAA information request"). On December 23, 1999, Strong submitted its response to U.S. EPA's CAA information request ("Strong's CAA information request response").

35. The Strong facility has a Spill Prevention Control and Countermeasure (SPCC) Plan dated September 1, 1999. That SPCC plan was adopted by Strong management on September 2, 1999. As part of that SPCC plan Strong's management certified that the statements in the SPCC plan were true and accurate to the best of their knowledge and belief.

36. On or about August 2, 1999, Strong collected soil samples from an area of the Strong facility where car batteries were collected and stored ("battery storage area"). Strong also collected soil samples from two areas of asphalt immediately south of the battery storage area ("asphalt areas").

37. On or about August 2, 1999, U.S. EPA collected soil samples near a spring (SS1) and near scrap vehicles (SS2 and SS3) located at the Strong facility.

38. On or about April 11, 2000, Strong collected soil samples from the Strong facility.

B. CLEAN AIR ACT RELATED

39. Strong accepted small appliances at the Strong facility.

40. On July 22, 1999, Strong stored at the Strong facility small appliances in the area south of the scale and office building. At least one small appliance and one motor vehicle were located at Strong. The small appliance and motor vehicle had their compressors intact.

41. On August 31, 2000, Strong received at least three small appliances at the Strong facility in an unmarked van. The van hauled a trailer which had the three small appliances on it. Strong did not receive any papers or documentation from the van driver prior to him entering the Strong facility that day.

42. From at least July 22, 1999, to and including August 31, 2000, Strong did not have equipment for the evacuation or recovery of refrigerants at the Strong facility.

43. On July 22, 1999, and August 31, 2000, Strong did not have a verification statement or contract for the disposal of the small appliances identified in paragraphs 40 and 41 above.

44. Strong received shipments of small appliances from 48 individuals. Strong collected statements from these individuals. Strong provided these statements as part of Strong's CAA information request response. These statements had various deficiencies and all of these statements did not have the name or address of the person who recovered the refrigerant nor the date the refrigerant was recovered from the small appliance.

45. Strong received shipments of small appliances and/or motor vehicles from 146 individuals. Strong did not retain records of verification statements

or contracts for its receipt of small appliances and/or motor vehicles from these individuals. (See Strong's CAA information request response).

46. In September and June 2001, pursuant to section 113(d) of the CAA, 42 U.S.C. §7413(d), the Attorney General and the Administrator approved Complainant, Director of the Air and Radiation Division, filing Counts I and II more than one year after the date of the incurrence of the violations and for greater than a total amount of $220,000.

C. RCRA RELATED

47. On July 22, 1999, there were piles of crushed automobiles located on the south side of the Strong facility ("crushed auto area") near the shredder building. Oil and gasoline were on the ground near the crushed vehicles. Oil and grease were draining from the piles of crushed vehicles.

48. On July 22, 1999, automobile gasoline tanks were located near the crushed auto area. The gasoline tanks were open with gasoline on the ground. The drain plugs were removed from automobile engine oil pans with the motor oil on the ground. The oil was in the same area as the gasoline. The oil and gasoline saturated the soil and left a strong volatile odor.

49. On July 22, 1999, automobile batteries, gasoline tanks, oil, antifreeze, and unidentified liquids were scattered on the ground near the shredder building at the Strong facility.

50. The crushed auto area was located near the shredder building on July 22, 1999.

51. On July 22, 1999, automobile batteries were opened and on the ground at the Strong facility ("battery storage area"). The battery storage area was located near the shredder building.

52. On July 22, 1999, Strong did not have containment or diversionary structures which could prevent the migration of contaminants from reaching the storm sewers or catch basins located at the Strong facility.

53. On July 22, 1999, Strong did not have an SPCC plan.

54. Strong's sample results of the battery storage area taken on August 2, 1999, showed that the following chemicals were above the RCRA toxicity characteristic leachate procedure (TCLP) levels specified in MAC § 299.9212(4) (40 C.F.R. 261.24):

Chemical	TCLP limit	Sample Results	RCRA waste code
Benzene	0.5 mg/l	559 mg/l	D018
Chlorobenzene	100 mg/l	2969 mg/l	D021
1,4-Dichloro-benzene	7.5 mg/l	967 mg/l	D027
1,2-Dichloro-ethane	0.5 mg/l	36 mg/l	D028
Tetrachloro-ethylene	0.7 mg/l	6.2 mg/l	D039
Trichloro-ethylene	0.5 mg/l	3.6 mg/l	D040
Lead	5.0 mg/l	27 mg/l	D008

55. Strong's sample results of the battery storage area showed that the sample flashed at room temperature - 70 degree Farenheit. The sample thus

exceeded the 140 degree Farenheit RCRA regulatory limit for ignitibility found in MAC 299.9212(1)(a) [40 C.F.R. 261.21].

56. Strong's sample results from soil samples taken on August 2, 1999, from the asphalt areas to the south of the battery storage area were as follows

Chemical & Location	Regulatory Limit	Sample results	RCRA waste code
Lead (SS1)	5.0 mg/l	6.7 mg/l	D008
Lead (SS3)	5.0 mg/l	22 mg/l	D008

57. U.S. EPA sample results from soil samples taken on August 2, 1999, near the scrap vehicles (sample SS2) were as follows:

Chemical	Regulatory Limit	Sample results	RCRA waste code
Lead	5.0 mg/l	43.4 mg/l	D008
Benzene	0.5 mg/l	6,230.0 mg/l	D018
Ethylbenzene	NA	25,800.0 mg/l	NA
Toluene	NA	62,300.0 mg/l	NA

58. U.S. EPA sample results from the soil samples taken on August 2, 1999, for the sample taken near the scrap vehicles (sample SS2) indicated that the sample had a flash point of 81 degree Farenheit. The sample thus exceeded the 140 degree Farenheit RCRA regulatory limit for ignitibility found in MAC §299.9212(1)(a) [40 C.F.R. 261.21]. The sample also had total petroleum hydrocarbon levels of 817,000 ppm.

59. Strong's sample results from the soil samples taken on April 11, 2000, at the Strong facility were as follows:

Chemical & Location	Regulatory Limit	Sample results	RCRA waste code
Lead (001)	5.0 mg/l	6.7 mg/l	D008
Lead (002)	5.0 mg/l	63.0 mg/l	D008
Lead (003)	5.0 mg/l	4040.0 mg/l	D008
Lead (004)	5.0 mg/l	92.9 mg/l	D008
Lead (005)	5.0 mg/l	8.65 mg/l	D008
Lead (006)	5.0 mg/l	8.08 mg/l	D008
Arsenic (002)	5.0 mg/l	5.67 mg/l	D004
Arsenic (003)	5.0 mg/l	6.34 mg/l	D004
Arsenic (006)	5.0 mg/l	6.15 mg/l	D004
Barium (003)	100 mg/l	225.0 mg/l	D005
Cadmium (003)	1.0 mg/l	10.7 mg/l	D006
Chromium (002)	5.0 mg/l	18.0 mg/l	D007
Chromium (003)	5.0 mg/l	270.0 mg/l	D007
Chromium (004)	5.0 mg/l	37.7 mg/l	D007
Chromium (005)	5.0 mg/l	10.4 mg/l	D007
Chromium (006)	5.0 mg/l	16.0 mg/l	D007
Benzene (003)	0.5 mg/l	5.7 mg/l	D018
Benzene (004)	0.5 mg/l	5.5 mg/l	D018

60. From at least April 11, 2000 to May 5, 2000 Strong stored at the Strong facility 3 55-gallon drums containing contaminated soils excavated from the battery storage area.

61. Strong excavated and removed from the Strong facility 4 20-cubic-yard roll-off boxes of contaminated soils from the 2 asphalt areas south of the battery storage area.

62. On April 19, 2000, Strong shipped from the Strong facility 4 20-cubic-yard roll-off boxes of hazardous waste identified by the waste code D008. Uniform Hazardous Waste Manifest numbers MI7585535, 36, 37 and 38 accompanied these loads.

63. On April 30, 2000, Strong completed a waste characterization report for the drummed wastes identified in paragraph 60 above.

64. The waste characterization report identifed the contents of the 3 drums to include gasoline.

65. The waste characterization report identified the contents of the 3 drums with the following RCRA waste codes: D001 (ignitible), D018 (benzene), D008 (lead), D021 (chlorobenzene), D027 (1,4-dichlorobenzene), D028 (1,2-dichloroethane), D039 (tetrachloroethylene) and D040 (trichloroethylene).

66. The waste characterization report indicated that the wastes contained in the 3 drums were subject to Subpart CC (40 C.F.R. 264 and 265, Subpart CC) since their volatile organic compound content was greater than 500 ppm.

III. VIOLATIONS

A. COUNT I - CLEAN AIR ACT

FAILURE TO OBTAIN AND RETAIN VERIFICATION STATEMENTS FOR PROPER EVACUATION OF OZONE DEPLETING REFRIGERANTS.

67. Paragraphs 1-8, 14-22, 32, 34, 39-46 are incorporated herein as if set forth in their entirety.

68. Strong is a "person," as defined in section 302(e) of the CAA, 42 U.S.C. § 7602(e).

69. Strong is a person who disposed of or took the final step in the disposal process ("disposal") of small appliances and/or motor vehicles as part of its business operations at the Strong facility. Strong is, therefore, subject to the regulations at 40 C.F.R. Part 82, Subpart F.

70. Strong disposed of refrigeration and air conditioning units without either recovering refrigerant from the units in accordance with 40 C.F.R. § 82.156(g) or (h); or verifying that the refrigerant had been evacuated from the units previously, in accordance with the specific requirements of 40 C.F.R. § 82.156(f)(2).

71. The refrigeration and air conditioning units or parts thereof that Strong disposed were " small appliances", and/or motor vehicle air conditioners as those terms are defined in 40 C.F.R. § 82.152.

72. Strong's disposal of at least 49 small appliances, one motor vehicle and one shipment of small appliances without any verification statements or contracts or with deficient verification statements or contracts as set forth in paragraphs 40, 41, 43 and 44 constitutes at least 51 separate violations of 40 C.F.R. § 82.156(f) and section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3).

B. COUNT II - CLEAN AIR ACT

FAILURE TO RETAIN RECORDS RELATIVE TO THE PROPER EVACUATION OF OZONE DEPLETING REFRIGERANTS.

73. Paragraphs 1 - 8, 14-22, 32, 34 and 39-46 are incorporated herein as if set forth in their entirety.

74. Strong is a "person," as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

75. Strong is a person who disposed of or took the final step in the disposal process ("disposed") of small appliances as part of its business operations at the Strong facility. Strong is, therefore, subject to the regulations at 40 C.F.R. Part 82, Subpart F.

76. Strong disposed of refrigeration and air conditioning units or parts thereof without either recovering refrigerant from the units in accordance with 40 C.F.R. § 82.156(g) or (h); or verifying that the refrigerant had been evacuated from the units previously, in accordance with the specific requirements of 40 C.F.R. § 82.156(f)(2).

77. The refrigeration and air conditioning units or parts thereof that Strong disposed were "small appliances" or motor vehicle air conditioners, as those terms are defined in 40 C.F.R. § 82.152.

78. Strong did not maintain or retain records of its disposal or verification statements as required by 40 C.F.R. § 82.166(i) and (m) and section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3). Strong's failure to maintain or retain such records as set forth in paragraph 45 constitutes at least 146 separate violations of 40 C.F.R. § 82.166(i) and (m) and section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3).

C. COUNT III RCRA

INADEQUATE RESPONSE TO RELEASES OF USED OIL

79. Paragraphs 9-18, 20-23, 26, 32, 33, 36-38 and 47-50, 57 and 58 are incorporated herein as if set forth in their entirety.

80. According to MAC § 299.9809(c) [40 C.F.R. § 279.10(c)(1)] used oil drained or removed from materials containing used oil is subject to the used oil regulations contained in MAC § 299.9810 - 299.9816.

81. MAC §§ 299.9810(3) [40 C.F.R. § 279.22(d)] requires a generator of used oil to, among other things, stop the release of used oil, contain the release of used oil and clean-up and manage properly the release of used oil.

82. MAC § 299.9109(w) [40 C.F.R. § 279.1] defines a used oil generator as any person whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

83. MAC § 299.9106(i) [Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10] defines "person" to include corporations.

84. MAC § 299.9109(o) [40 C.F.R. § 279.1] defines used oil to include any oil that has been refined, used and as a result of such use contaminated by physical or chemical impurities.

85. The liquids draining from the crushed vehicles, contained in the automobile engine oil pans and/or poured on the ground as identified in paragraphs 47 to 49 consisted of oil. These liquids were contaminated with physical and chemical impurities and are "used oil" as that term is defined in MAC § 299.9109(o) [40 C.F.R. § 279.1].

86. Strong is a corporation and thus a "person" under MAC § 299.9106(i) [Section 1004(15), of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10].

87. The used oil drained from the crushed automobiles and engine oil pans is regulated pursuant to MAC § 299.9809(c) (40 C.F.R. 279.10(c)(1)). Strong's

actions of allowing oil to drain from the crushed automobiles and/or the engine oil pans onto the ground is the first act which makes the used oil from the automobiles and/or automobile engine pans subject to regulation under MAC § 299.9810-9816. Strong, therefore, is a "used oil generator" as defined by MAC § 299.9109(w) [40 C.F.R. § 279.1].

88. On July 22, 1999, U.S. EPA observed releases of used oil from the crushed automobiles and the engine oil pans. These releases had occurred over the course of numerous days. At that time Strong had not taken any actions to stop, contain or clean-up the releases of used oil as alleged above. Consequently, by July 22, 1999, Strong failed to comply with MAC § 299.9810(3) for at least one day.

D. COUNT IV RCRA

ILLEGAL STORAGE OF USED OIL

89. Paragraphs 9-18, 20-23, 26, 32, 33, 36-38 and 47-50, 57 and 58 are incorporated herein as if set forth in their entirety.

90. MAC §§ 299.9810(4) [40 C.F.R. § 279.12(a) and 279.22(a)] prohibits a used oil generator from storing used oil in units other than tanks or containers.

91. MAC § 299.9109(w) [40 C.F.R. § 279.1] defines a used oil generator as any person whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

92. MAC § 299.9106(i) [Section 1004(15), of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10] defines "person" to include corporations.

93. MAC § 299.9109(o) [40 C.F.R. § 279.1] defines used oil to include any oil that has been refined, used and as a result of such use contaminated by physical or chemical impurities.

94. According to MAC § 299.9809(c)(3) [40 C.F.R. § 279.10(c)(3)] used oil drained or removed from materials containing used oil is subject to the used oil regulations contained in MAC § 299.9810 - 299.9816.

95. MAC § 299.9102(j) [40 C.F.R. § 260.10] defines container to mean any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

96. MAC § 299.9109(aa) [40 C.F.R. § 279.1] defines used oil tank to mean a stationary device which is designed to contain an accumulation of used oil and constructed primarily of non-earthen materials such as wood, concrete, steel or plastic which provides structural support.

97. The liquid draining from the crushed automobiles or drained on the ground as identified in paragraphs 47-49 consisted of oil. These liquids were contaminated with physical and chemical impurities and are thus "used oil" as that term is defined in MAC § 299.9109(o) [40 C.F.R. § 279.1].

98. Strong is a corporation and thus a "person" under MAC § 299.9106(i) [Section 1004(15), of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10].

99. The used oil drained from the crushed automobiles and engine oil pans is regulated pursuant to MAC § 299.9809(c) [40 C.F.R. 279.10(c)(1)]. Strong's actions of allowing oil to drain from the crushed automobiles and/or the engine oil pans onto the ground is the first act which makes the used oil from the

automobiles and/or automobile engine oil pans subject to regulation under MAC § 299.9810-9816. Strong, therefore, is a "used oil generator" as defined by MAC § 299.9109(w) [40 C.F.R. § 279.1].

100. Strong violated MAC § 299.9810(4) [40 C.F.R. 279.12(a) and 279.22(a)] when it disposed of the used oil on the ground and thus stored it in a unit other than a used oil tank or container. This constitutes at least one day of violation of MAC § 299.9810(4) [40 C.F.R. 279.12(a) and 279.22(a)] for at least one day, July 21, 1999.

E. COUNT V RCRA
FAILURE TO LABEL USED OIL CONTAINERS

101. Paragraphs 9-18, 20-23, 26, 32, 33, 36-38 and 47-49, are incorporated herein as if set forth in their entirety.

102. MAC §§ 299.9810(3) [40 C.F.R. § 279.22(c)] requires a used oil generator to label or mark containers used to store used oil with the words "Used Oil."

103. MAC § 299.9109(w) [40 C.F.R. § 279.1] defines a used oil generator as any person whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

104. MAC § 299.9106(i) [Section 1004(15), of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10] defines "person" to include corporations.

105. MAC § 299.9109(o) [40 C.F.R. § 279.1] defines used oil to include any oil that has been refined, used and as a result of such use contaminated by physical or chemical impurities. MAC § 299.9809(c)(3) [40 C.F.R. § 279.10(c)(3)]

makes used oil drained or removed from materials containing used oil subject to the used oil regulations contained in MAC § 299.9810 - 299.9816.

106. MAC § 299.9102(j) [40 C.F.R. § 260.10] defines container to mean any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

107. Strong is a corporation and thus a "person" under MAC § 299.9106(i) [Section 1004(15), of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10].

108. The liquids contained within the 250 gallon AST identified in paragraph 26 and in the automobiles and their engine oil pans identified in paragraph 47 - 49 were oil. These liquids were used oil as that term is defined in MAC § 299.9109(o) [40 C.F.R. § 279.1]. The 250 gallon AST, the automobiles and their engine oil pans were "containers" as that term is defined in MAC § 299.9102(j) [40 C.F.R. § 260.10].

109. Strong's actions of collecting used oil in the 250 gallon AST, collecting and draining oil from automobiles and automobile engine oil pans make it a "used oil generator" as defined by MAC § 299.9109(w) [40 C.F.R. § 279.1].

110. Strong stored used oil in the 250 gallon AST, and the automobiles and their engine oil pans without placing a label "used oil" on them.

111. Strong violated MAC 299.9810(3) [40 C.F.R. § 279.22(c)] when it stored the used oil in the AST, automobiles and their engine oil pans without labeling or marking them "Used Oil". This constitutes at least one day of violation of MAC § 299.9810(3), [40 C.F.R. 279.22(b)] for at least one day, July 21, 1999.